

Remarks

Applicant acknowledges with appreciation the withdrawal of the rejection under 35 U.S.C. §102 based on U.S. 5,201,710 to Caselli and the allowance of claims 58-77, 79-86, 88-94, 107 and 108.

Claims 29-34, 36-42, 44-50, 52, 54-57, 102-106, 110-112 and 117-121 are canceled to advance prosecution of this application without prejudice to Applicant's right to assert all or a portion of the subject matter contained in such claims in another application claiming priority through the present application.

Allowed claim 60 is amended to delete "further" before "comprises" because the recited "annular shoulder" is "the" barrier limiting forward motion of the elongated needle holder that is already recited in allowed claim 58.

Allowed claim 64 is amended to insert "a" between "comprises" and "seal".

Claim 96 remains rejected under 35 U.S.C. §102(b) as being anticipated by U.S. 5,084,018 to Tsao. Applicant respectfully disagrees. Regarding claim 96, Tsao is said by Examiner to teach ". . . a rigid stop surface (26)." As to that element, claim 96 actually recites, ". . . the body further comprising a rigid stop surface that is contacted directly by the plunger seal. . ." Contrary to Examiner's assertion, Tsao '018 does not disclose that structure. As best seen in FIG. 4 of Tsao '018, there is no portion of barrel (12) [the body] constituting "a rigid stop surface that is contacted directly by the plunger seal (26) and stops forward movement of the plunger inside the body following release of the retractable needle" as recited by Applicant in claim 96.

Claim 109, rejected under 35 U.S.C. 103(a) as being unpatentable over Tsao ('018) and Mercado ('138), depends from allowed independent claim 81 and is also allowable. Applicant traverses this rejection.

Claims 113-116 are also rejected under 35 U.S.C. 103(a) as being unpatentable over Tsao ('018) and Mercado ('138), and Applicant also traverses this rejection. Each of claims 113-116 recites "wherein any forward movement of the needle holder relative to the barrel is limited by an annular shoulder disposed adjacent to and defining the small diameter open end at a narrowest part of the barrel [emphasis supplied]." In Tsao (best seen in FIG. 4), extender 19 has "an annular shoulder adjacent to and defining the small diameter open end at a narrowest part of the barrel" but that is not the annular

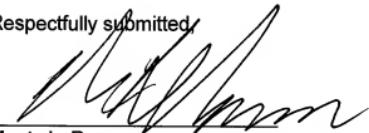
shoulder that limits any forward motion of the needle holder. The annular shoulder that limits any forward motion of the needle holder is the shoulder that seats against the forwardly facing annular surface of the large-diameter portion of locking tip 34 (best seen in FIGS. 1-3), which shoulder is not adjacent to and defining the small diameter open end at a narrowest part of the barrel.

In view of Applicant's cancellation of all but five of the rejected claims in this Amendment and in view of the basis upon which Applicant urges the allowance of the five remaining rejected claims, Applicant will not make this paper unduly long by responding specifically to statements made by Examiner in the section of the Final Rejection identified as "Response to Arguments." Nevertheless, Applicant does not accede to Examiner's statements made in that section or hereby waive any right to traverse or controvert such statements or the position taken by Examiner in rejecting any of the rejected claims in any further proceeding relating to the subject matter of those claims, the meaning of terms recited in those claims, or with respect to any characterization by Examiner as to the disclosure of Tsao '018 or its possible applicability to elements recited in Applicant's allowed or rejected claims. In addition to this general traversal, Applicant specifically traverses Examiner's characterization of what Applicant has previously argued in the responses filed February 23 and March 29, 2007, which responses speak for themselves. Applicant also specifically traverses Examiner's assertion that Applicant's arguments are "not relevant" because the office action specifically refers to FIGS. 1-4 of Tsao '018; specifically traverses that the outer periphery of the end cap is any proximal portion of the plunger; specifically traverses that the outer periphery of the end cap is shown within the barrel following retraction in FIG. 4 of Tsao '018; specifically traverses that the "needle holding portion" is any portion that is used to guide or stabilize the needle in use; specifically traverses that extension 19 of Tsao '018 can be both the "needle holding portion" and a part of the inner wall of the syringe since it is integral with the barrel (including the "especially" clause in Examiner's statement); and specifically traverses Examiner's statement of belief regarding the alleged disclosure by Tsao '018 of the structural features of Applicant's device as recited in the rejected claims.

It is not believed that any fee is due in connection with this Amendment After Final, which is being filed within two months of the mailing date of the Final Rejection, but please charge any additional fee that may be required or credit any overpayment to Deposit Account No. 12-1781 of Locke Liddell & Sapp, LLP.

All pending claims are believed to be in condition for allowance, and Applicant respectfully requests that the amendments to claims 60 and 64 be entered, that the rejections of record be withdrawn as to claims 96, 109 and 113-116, and that a Notice of Allowance be issued.

Respectfully submitted,



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